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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,922	01/23/2002	Terrance Campbell		1134

7590 09/27/2004
Matthew J. Peirce, Esq.
1550 Starlight Canyon Avenue
Las Vegas, NV 89123

EXAMINER

NGUYEN, THONG Q

ART UNIT PAPER NUMBER

2872

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/052,922	Applicant(s) CAMPBELL, TERRANCE	
	Examiner Thong Q Nguyen	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The present Office action is made in response to the amendment filed on 7/8/2004. It is noted that in the mentioned amendment, applicant has made amendments to the specification and claims 2-5. It is also noted that applicant has filed a substitute drawings contained two sheets of figures 1-3.

Drawings

2. The drawings contained two sheets of figures 1-3 were received on 7/8/2004. These drawings are approved by the Examiner.

Specification

3. The lengthy specification which is amended by the amendment has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claim 1-2 and 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer (U.S. Patent No. 5,418,610, of record).

Fischer discloses a mirror and a means for controlling the operation of the mirror.

In columns 2-4 and figure 2, Fischer disclose that the mirror comprises a reflecting component (16,18) having a front surface, a glass layer (14) attached

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to the front surface of the reflecting component, and a control system located inside the vehicle for controlling the movement of the mirror wherein the control system could be a conventional electrical or mechanical means (column 3, lines 3-6). Regarding to the housing/casing supporting the mirror, in column 2, lines 61+, Fischer states the use of a mirror outer housing for supporting the mirror. Regarding to the optical feature of the glass layer (14), in column 4, lines 5-8, Fischer suggests the use of shielding material to tint the glass for the purpose of reducing glares.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer in view of Salim-Khan (GB 2 295 997, of record).

While Fischer suggests the use of a tinted glass layer attached to the front surface of a mirror for the purpose of reducing glares from headlines of other vehicles shining on the mirror, he does not explicitly state that a smoked glass can be used in place of a tinted glass layer. However, such use of a smoked glass as claimed is merely that of a preferred embodiment and no criticality has been disclosed. The support for that conclusion is found in the present specification in which applicant has disclosed another embodiment in which a tinted glass is used. Such use of a tinted glass is indeed claimed as can be seen in present claim 2. Further, the use of either a tinted optical element or a smoked optical

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element for the purpose of reducing glare is suggested to one skilled in the art as can be seen in the device for reducing glare provided by Salim-Khan. See abstract and page 1. Thus, absent any showing of criticality, it would have been obvious to one skilled in the art at the time the invention was made to utilize any suitable material including a smoked element as suggested by Salim-Khan in the device for reducing glare provided by Fischer for the purpose of reducing glare and satisfying a particular design/application.

Response to Arguments

8. Applicant's arguments filed on 7/8/2004, pages 5-6 have been fully considered but they are not persuasive for the following reasons.

A) Regarding to the rejection of claims 1-2 and 4-5 under 35 USC 102(b) over the art of Fischer, applicant has argued that the art of Fischer cannot use to reject the present claims 1-2 and 4-5 because the art of Fischer is directed to a rear view mirror while the device of the present claims 1-2 and 4-5 is directed to a side view mirror. The Examiner respectfully offers the following opinions.

First, the rearview mirror with its control as provided by Fischer comprises all of the structural features of the mirror recited in the present claims 1-2 and 4-5. In particular, in columns 2-4 and figure 2, Fischer disclose that the mirror comprises a reflecting component (16,18) having a front surface, a glass layer (14) attached to the front surface of the reflecting component, and a control system located inside the vehicle for controlling the movement of the mirror wherein the control system could be a conventional electrical or mechanical means (column 3, lines

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3-6). Regarding to the housing/casing supporting the mirror, in column 2, lines 61+, Fischer states the use of a mirror outer housing for supporting the mirror. Regarding to the optical feature of the glass layer (14), in column 4, lines 5-8, Fischer suggests the use of shielding material to tint the glass for the purpose of reducing glares.

Second, the only feature different from the mirror provided by Fischer and the mirror of the present claims 1-2 and 4-5 is the terms "side view" recited in the preamble of the claims. However, such a recitation provided in the preamble of the claim is not given a patentable weight because the recitation occurs in the preamble and all of the features appeared after the term "comprising" do not provide any feature/limitation for the so-called "side view" mirror of the device claimed. Applicant should note that a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

B) Regarding to the rejection of claim 3 under 35 USC 103(a) over the combination of arts provided by Fischer and Salim-Khan, applicant's arguments as provided in the amendment, page 6 have been fully considered but they are not persuasive.

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First, applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Second, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the art of Salim-Khan is directed to the use of either a tinted optical element or a smoked optical element installed in an automobile for the purpose of reducing glare. See abstract and page 1 of the reference GB 2 295 997 issued to Salim-Khan. The primary reference, i.e., the Fischer reference, discloses an optical device having means for reducing glare. As such, both the references used in the rejection are in the same of endeavour and also directed to the use of material(s) for reducing glare. Thus, it would have been obvious to one skilled in the art at the time the invention was made to utilize any suitable material including a smoked element as suggested by Salim-Khan in the device for reducing glare provided by Fischer for the purpose of reducing glare.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

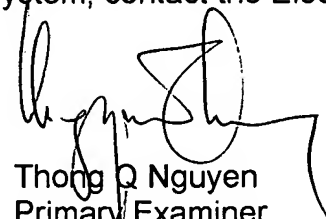
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q. Nguyen
Primary Examiner
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